

March 6, 2015

PRESENT: J. D. Tilghman, Chairwoman
 G. A. Coyner, II, Vice Chairman
 D. A. Brown
 S. F. Shreckhise
 J. R. Wilkinson, Zoning Administrator & Secretary
 Pat Morgan, County Attorney
 B. Cardellicchio-Weber, Executive Secretary

ABSENT: T. H. Byerly

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VIRGINIA: At the Regular Meeting of the Augusta County Board of Zoning Appeals held on Friday, March 6, 2015, at 1:30 P.M., in the County Government Center, Verona, Virginia...

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The Board did not view any of the sites on the agenda today due to the inclement weather.

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MINUTES

Vice Chairman Coyner moved that the minutes from the February 5, 2015, meeting be approved.

Ms. Brown seconded the motion, which carried unanimously.

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JENNIFER TAYLOR-LILLEY - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jennifer Taylor-Lilley, for a Special Use Permit to increase the number of children in the day care operation on property owned by Pinkston Dougan, LLC, located at 91 Tinkling Spring Drive, Fishersville in the Wayne District.

Mr. Wilkinson stated the applicant has had a death in the family and requested that the Board table the public hearing for this request until the April meeting.

March 6, 2015

Vice Chairman Coyner moved there being no one present from the public requesting to speak on the matter that the request be tabled until the April 2, 2015 meeting.

Ms. Brown seconded the motion, which carried unanimously.

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RAY H. WEAVER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Ray H. Weaver, for a Special Use Permit to have the option for other auctioneers to use the facility and have social events on property he owns, located at 327 Howardsville Turnpike, Stuarts Draft in the South River District.

Mr. Ray Weaver stated that he has retired from the auction business. He stated his daughter is a licensed auctioneer but she has accepted full-time employment elsewhere. He would like to create additional income and allow other auctioneers the use of his facility. He also would like to have social events on the property.

Vice Chairman Coyner asked how many participants can you handle at the site?

Mr. Weaver stated one hundred (100) participants.

Vice Chairman Coyner asked if that number would be sufficient?

Mr. Weaver stated he is unsure because he has never experienced any social events at the site.

Vice Chairman Coyner asked how many people attend auctions?

Mr. Weaver stated they may have one hundred (100) at the site for a good estate auction.

Vice Chairman Coyner noted that if there is an auction that week, the applicant could not have a wedding event during the same week.

Mr. Wilkinson stated the septic system would have to be upgraded if the applicant would request that the number of attendees be increased.

Mr. Shreckhise stated the applicant would also need to reapply for another Special Use Permit in order to increase the number.

Ms. Brown asked if the parking is designated at the site?

Mr. Weaver stated yes, parking would be available.

Ms. Brown asked if there would be lighting at night?

Mr. Weaver stated yes, existing outside lighting is available.

Vice Chairman Coyner stated the Board has not had any complaints for this site.

Mr. Weaver stated he has already had an auctioneer from northern Virginia contact him about having an auction at the site.

Vice Chairman Coyner asked how long has the applicant been at this site?

Mr. Weaver stated he has had the Special Use Permit for twenty (20) years.

Chairwoman Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairwoman Tilghman declared the public hearing closed.

Vice Chairman Coyner stated the applicant has operated from this site for quite some time and the Board has not received any complaints. He stated this is a good facility. He stated the applicant is aware that he is limited by the septic system to one hundred (100) attendees at an event. He moved that the request be approved with the following conditions:

Pre-Condition:

1. Obtain letter of approval from Building Inspection.

Operating Conditions:

1. Be permitted to have indoor auctions and flea market events and have other auctioneers use the facility, and have social events.
2. Be permitted to have one (1) event per week.

March 6, 2015

- 3. Be limited to a maximum of one hundred (100) people attending events until septic system upgrades are installed and approved by the Health Department, and they increase the number of attendees and number of events per week.
- 4. A copy of the revised Health Department permit be provided to Community Development prior to any increase in number of people attending and number of events.
- 5. Events may be held Monday through Saturday.
- 6. No outdoor amplified music after 10:00 p.m.
- 7. All special events to cease by 11:00 p.m. and all persons off of the property before midnight.
- 8. All auctions and flea markets be conducted inside the barn.
- 9. Large items may be kept on the concrete pad or behind the barn the day before and the day of a scheduled auction.
- 10. Vehicle auctions are not permitted on this site as a primary use.
- 11. Site be kept neat and orderly.
- 12. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
- 13. Any new outdoor lights over 3,000 lumens require site plan submittal and must meet the ordinance requirements of Article VI.A Outdoor Lighting.

Mr. Shreckhise seconded the motion, which carried unanimously.

Mr. Wilkinson stated the applicant should contact GW Wiseman, Building Official, regarding the Building Code regulations for the weddings and social events inside the building.

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JASON AND LINDSAY STUTH, AGENTS FOR JLCO, LLC - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Jason and Lindsay Stuth, agents for JLCO, LLC, for a Special Use Permit to replace and enlarge an existing non-

March 6, 2015

conforming building not meeting the front setback requirements on property they own, located at 335 Emmanuel Church Road, Mt. Solon in the North River District.

Mr. Jason Stuth stated the building is twelve (12') feet off of the road.

Vice Chairman Coyner stated the post looks to be in line with the fence. He stated the Board did not view the site due to the inclement weather.

Mr. Shreckhise asked if the applicant can move the building back further?

Mr. Stuth stated he cannot move the building back any more because it stays wet in that area. He stated it is very marshy and it would cost a substantial amount of money to move the building back.

Chairwoman Tilghman stated the applicant is planning on making the building larger. She noted the original building was 15' x 20' and the applicant is proposing a 24' x 32' structure.

Mr. Stuth stated yes.

Vice Chairman Coyner asked if the building is a pole type farm building?

Mr. Stuth states yes.

Chairwoman Tilghman asked if the building would be used for farm use?

Mr. Stuth stated yes.

Chairwoman Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairwoman Tilghman declared the public hearing closed.

Mr. Shreckhise stated the building will be further away from the road than it was previously. He moved that the request be approved with the following conditions:

Pre-Condition:

1. Obtain VDOT approval that the building will be out of VDOT right-of-way and provide a copy to Community Development.

March 6, 2015

Operating Conditions:

- 1. Be permitted to replace the building no closer than twelve (12') feet from the edge of Emmanuel Church Road.
- 2. Obtain a farm building permit.

Vice Chairman Coyner seconded the motion, which carried unanimously.

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BEN YODER - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Ben Yoder, for a Special Use Permit to construct a new building in conjunction with the internet auction business on property owned by Bennie W. or Anna M. Byler, located at 1210 Cold Springs Road, Stuarts Draft in the Riverheads District.

Mr. Ben Yoder is considering purchasing this property. He has an auction company that conducts internet auctions. He noted 85% of his clients are senior citizens. He stated his business helps pack and move the items to the client's new home or assisted living facility and any items left over they will take them to their site in order to have the internet auctions. He stated buyers come to the warehouse to pick up the items or he ships to them. He mentioned with a traditional auction there are 100 to 200 buyers at the site. He stated with an internet auction there are only 10 to 20 visitors at their facility. He stated he is asking for a bigger facility but the internet auction has a much lower impact. He would like to consolidate a couple of his sites and bring all of the items to one facility. He mentioned that he would keep the site looking neat. He stated the traffic will be reduced and the impact will be very minimal. He stated many people choose to have the auction on the internet instead of onsite. He stated the result is higher on the internet. He noted that he does offer an open house but few people attend.

Vice Chairman Coyner asked if the applicant has buyers all over?

Mr. Yoder stated he has had buyers from the fifty (50) states and in four (4) different countries.

Chairwoman Tilghman asked what percentage come to the site to pick an item up?

March 6, 2015

Mr. Yoder stated approximately 40% to 60% come to the site to pick up. He stated this happens mostly with the larger furniture because it would cost more to ship. He stated the smaller items are shipped to the buyer.

Mr. Shreckhise asked if the applicant uses the trailer to pick up the items?

Mr. Yoder stated yes.

Mr. Shreckhise asked if the items are left in the trailer until they are sold?

Mr. Yoder stated yes now because of space issues. He stated with a traditional auction on a good day there could be up to 100 people. He stated with an online auction 78,000 users visit the internet auction.

Chairwoman Tilghman asked how many bids take place for an internet auction?

Mr. Yoder stated 5,000 bids were placed and he had about 350 items for auction. He stated internet auctions take a lot of the liability off of the homeowner. He stated they charge based on a sliding scale. He stated the larger items they charge a lower commission which they feel is fair.

Vice Chairman Coyner asked why would the applicant not use the barn across the road?

Mr. Yoder stated there are two (2) buildings across the road. He noted the square footage of those buildings are larger but he does not want to use them because of the condition they are in as well as access to those buildings would be difficult. He noted that area remains wet and would require quite a bit of excavation. He mentioned at the end of the day they would still be poultry houses.

Vice Chairman Coyner asked what the neighbors feel about the request?

Mr. Yoder stated one neighbor did have issues with the traffic originally but they were pleasantly surprised how few and non-disruptive the business is.

Chairwoman Tilghman asked how many facilities are open?

Mr. Yoder stated five (5) facilities total. He noted Mt. Sidney will stay open but they will consolidate the others.

March 6, 2015

Chairwoman Tilghman stated if the other facilities close, there will be more traffic coming to this site.

Mr. Yoder stated no because he will not increase the number of events. He stated there is only minimal traffic at the other sites. He stated traffic may possibly increase but it would be very little. He is happy with the six (6) trailers that would be permitted in the parking area behind the new building.

Mr. Shreckhise asked if the applicant would be able to construct a 50' x 80' building for the business?

Mr. Yoder stated he would appreciate it but he would like to have it a little bigger. He stated if they cannot get the size building they want, then they will not build at all.

Ms. Brown asked what is done with the items that no one is interested in?

Mr. Yoder stated they donate them or dispose of the items.

Ms. Brown asked if the existing building will remain onsite?

Mr. Yoder stated yes, they will make improvements to the building. He stated they can live with a 60' x 100' building but they would appreciate something bigger.

Vice Chairman Coyner asked if a 60' x 120' building would be sufficient?

Mr. Yoder stated yes.

Mr. Wilkinson advised that the drainfield is at its maximum with three (3) employees.

Mr. Yoder stated he will not have any more than three (3) employees. He noted if he needed more in the future, he will come back before the Board. He stated they will reduce the number of auctions held because they will start combining online auctions in order to have bigger and better auctions. He stated the two hundred (200) auctions also include the onsite auctions. He stated once a week they will have an auction.

Ms. Brown asked how many employees does the applicant have?

Mr. Yoder stated two (2) full-time employees. He has part-time help if needed.

March 6, 2015

Vice Chairman Coyner stated operating an internet auction business seems to be much less labor and a lot less liability on the homeowner.

Chairwoman Tilghman asked if the trailers can be seen from the road?

Mr. Yoder stated now the trailers can be seen from the road but when the building is built they will not be seen. He noted once the building is built they will be in the parking area behind the building and not visible from the road. He wants to keep his property neat and clean.

Ms. Brown asked if the applicant lives at the site?

Mr. Yoder stated not at this time. He stated there are renters living at the property.

Chairwoman Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairwoman Tilghman declared the public hearing closed.

Vice Chairman Coyner stated this is a good operation. He moved that the request be approved with the following conditions:

Pre-Condition:

1. Submit site plan meeting the requirements of Section 25-673 "Site Plan Contents" of the Augusta County Zoning Ordinance to be approved by all appropriate departments and/or agencies.

Operating Conditions:

1. Be permitted to construct a 60' x 120' building for internet auctions.
2. There be no outside storage other than company vehicles, except that a maximum of six (6) motorized vehicles/equipment and six (6) trailers may kept in the trailer parking area behind the new building as shown on the site plan.
3. Be limited to three (3) full time employees unless applicant provides written approval from the Health Department and provides documentation to Community Development.

March 6, 2015

- 4. Site be kept neat and orderly.
- 5. No junk or inoperable vehicles, equipment, or parts of vehicles or equipment be kept outside.
- 6. Any new outdoor lights over 3,000 lumens require site plan submittal and must meet the ordinance requirements of Article VI.A Outdoor Lighting.

Mr. Shreckhise seconded the motion, which carried unanimously.

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JENNIFER S. FRANK, FAMILY TRUST - SPECIAL USE PERMIT

This being the date and time advertised to consider a request by Howard Vance, agent for Jennifer S. Frank, Family Trust, for a Special Use Permit to replace existing greenhouses with mini-warehouse units and have outdoor storage of vehicles and boats on property they own, located at 853 Old Greenville Road, Staunton in the Pastures District.

Mr. Bruce Frank stated he received the comments from staff last Friday. He was originally going to ask that the request be tabled in order to give Howard Vance and Jason Lackey with Balzer and Associates additional time address some of the concerns but he feels as though they can proceed with this public hearing. He stated the Southers family has operated the greenhouses for over fifty (50) years. He stated they tried to buy this property twenty (20) years ago. He stated that his wife lived on the property when she was a child. He stated they live next door to the house. He stated they are proud of the property and appreciate the neighbors. He stated none of the mini-warehouses are visible from the Spring Lakes Subdivision.

Chairwoman Tilghman stated that the Board did not visit the site due to the inclement weather.

Mr. Frank stated there are many greenhouses on the property. He stated there are 90,000 square feet of greenhouses at the site and he would like to replace them with 30,000 square feet of mini-warehouses.

Vice Chairman Coyner asked how many of the greenhouses will be removed?

Mr. Frank stated all of them will be removed.

March 6, 2015

Mr. Jason Lackey with Balzer and Associates explained the exhibit presented to the Board. He stated the mini-warehouses will be shielded from the road.

Ms. Brown asked how will they be screened?

Mr. Lackey stated they will be screened with evergreen shrubs.

Mr. Frank stated they are going to use a Leyland Cypress tree placed in the staggered pattern in order to protect the neighbors.

Vice Chairman Coyner asked about the mini-warehouses only meeting the minimum setback requirements?

Mr. Lackey stated this is their standard procedure. He stated there is no particular reason why he cannot move the mini-warehouses further away from the property line.

Vice Chairman Coyner asked if the customers will have 24-hour access?

Mr. Frank stated access will only be permitted from 7:00 a.m. until 9:00 p.m.

Vice Chairman Coyner asked if the applicant will have Sunday hours?

Mr. Frank stated yes.

Vice Chairman Coyner asked if there will be a gate at the site?

Mr. Frank stated yes. He noted there is only one way in and one way out of the site. He noted there will be a six (6') foot chain-link fence all around the facility. He noted they will use the mini-warehouse building as a barrier as well.

Mr. Shreckhise stated the Board may want to visit a mini-warehouse operation similar to what the applicant is proposing.

Mr. Frank stated his site will be similar to what Mack Wyatt used for his mini-warehouses here in Verona.

Mr. Shreckhise asked if his site was larger or smaller?

March 6, 2015

Mr. Frank stated he is unsure but he will be using the same company and the same type of construction. He will not permit business operation inside the mini-warehouses. He noted many people try and run a mechanic operation from the mini-warehouse sites. He stated they run a credit approval for the customer before signing a lease. He noted that he does not want any illegal operations going on right behind his house. He stated the big key is that this will be right in his backyard.

Ms. Brown asked how far from the property is his dwelling?

Mr. Frank stated about fifty (50') to one hundred (100') feet away.

Vice Chairman Coyner asked if he will construct the mini-warehouses in stages or all at one time?

Mr. Frank stated they will be constructed in stages.

Vice Chairman Coyner asked how long will it take to complete the project?

Mr. Frank stated two (2) years.

Ms. Brown asked how many buildings will there be?

Mr. Frank stated there will be 30,000 square feet of buildings. He stated there will be a mixture of four (4) different sizes. He has received calls from the residents of Spring Lakes wanting to rent out some of the units.

Chairwoman Tilghman stated with the lay of the land the mini-warehouses will not be visible from the road.

Mr. Frank stated yes that is correct.

Chairwoman Tilghman asked if the site would be visible from Spring Lakes?

Mr. Frank stated no.

Chairwoman Tilghman stated the mini-warehouses will be visible from the neighbors in the back. She is concerned about the mini-warehouses being close to the neighbors' house.

March 6, 2015

Mr. Frank stated he is reducing the square footage by 60,000. He noted that the neighbors can see 90,000 square feet of greenhouse and they are actually reducing the square footage by 30,000.

Chairwoman Tilghman stated the greenhouses were at the site for so many years. She stated the neighbors knew that the greenhouses were on the property already.

Mr. Shreckhise asked if the applicant has talked with any of the neighbors?

Mr. Frank stated they have not talked to any of the neighbors yet. He stated they have plans on talking to all of the fifteen (15) adjacent property owners and letting them know what their plans are.

Ms. Brown asked how many buildings are proposed?

Mr. Frank stated three (3) buildings are proposed.

Mr. Lackey stated they can paint the mini-warehouses in order to blend with the environment.

Mr. Shreckhise asked if all of the greenhouses are down?

Mr. Frank stated yes. He stated the frames were built in 1912 and they are donating the glass and salvaging the steel.

Ms. Brown asked if the applicant will remove the existing trees?

Mr. Lackey stated he does not anticipate any trees being removed.

Mr. Frank stated they plan on planting six (6') foot tall double stack Leyland Cypress trees.

Mr. Shreckhise stated Leyland Cypress trees tend to get diseases. He stated they do get forty (40') to fifty (50') feet tall.

Ms. Brown asked if there would be one entrance and one exit to the site?

Mr. Frank stated yes.

March 6, 2015

Mr. Lackey stated this request will reduce the impervious area by 30,000 square feet which would be a positive for the environment.

Chairwoman Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

There being none, Chairwoman Tilghman declared the public hearing closed.

Mr. Wilkinson stated staff has received two (2) letters in opposition to the request. He stated the items of concern were traffic, access being all hours of the night, noise, and the lighting impact on the surrounding homes. He noted that the County has a Lighting Ordinance which would need to be addressed at the site plan stage.

Vice Chairman Coyner stated the applicant seems to have all of their items in order but he would like to visit the site next month.

Chairwoman Tilghman stated she would like to view the site before voting on this request.

Mr. Shreckhise stated he would like to arrange for the Board to visit Mack Wyatt's mini-warehouse facility.

Ms. Brown stated the applicant will need to have lighting at the site since they will operate from 7:00 a.m. until 9:00 p.m.

Mr. Lackey stated there will be lighting at the site. He stated the lighting will not spread onto other pieces of property.

Ms. Brown asked if the lighting will be attached to the building or separate?

Mr. Lackey stated it would probably be attached to the building but they are only at a conceptual stage right now.

Ms. Brown asked how would customers access the site?

Mr. Frank stated there will be a gate and each customer will have an access code. He stated the gate will automatically close at 9:00 p.m. and will not let anyone into the facility after 9:00 p.m.

March 6, 2015

Vice Chairman Coyner moved that the request be tabled until the April 2, 2015 meeting.

Ms. Brown seconded the motion, which carried unanimously.

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PAUL S. OR TAMARA R.Y. MILLER - VARIANCE

This being the date and time advertised to consider a request by Paul S. or Tamara R.Y. Miller, for a Variance to reconstruct an existing home within the floodplain requiring a Variance from the Floodplain Ordinance on property they own, located at 1153 Hankey Mountain Highway, Churchville in the North River District.

Mr. Paul Miller stated they purchased the property and after they bought the property they had it tested for mold because they were experiencing asthma issues. He stated the amount of black mold in the dwelling was off the charts. He stated they decided that the repair would be more than the value of the home and they are now forced to tear the house down. He stated they have a barn onsite for horses and chickens. He stated the septic and well are already at the site. He stated the area outside of the floodplain is almost vertical and it is rock.

Ms. Brown asked if there is mold in the barn too?

Ms. Tamara Miller stated there is no mold in the barn because it is open and has a constant air flow.

Mr. Miller stated the dwelling will be elevated with the crawl space and the foundation will be engineered. He stated the dwelling will have a smaller footprint with two floors.

Mr. Shreckhise asked if they were aware of the regulations with the floodplain?

Mr. Miller stated they have been working with Howard Vance from Balzer and Associates. He stated Marshall Builders will construct the dwelling. He stated the dwelling will be constructed with flood vents and have an engineered foundation as per the Building Code and FEMA.

Mr. Wilkinson noted the dwelling will be a much better structure because of the flood control vents and engineered foundation.

Mr. Miller stated the dwelling was built in the early 1900s.

March 6, 2015

Ms. Miller stated they want the dwelling to be safe and sellable in the future.

Mr. Wilkinson stated the applicant has completed a floodplain development plan and there will be no increase under the FEMA limits. He stated they have done that prior to coming to the hearing. He stated the improved structure will not cause any additional flooding. He stated this will be a smaller structure and it will be flood proofed.

Chairwoman Tilghman asked if there was anyone wishing to speak in favor, or in opposition to the request?

Mr. Howard Vance with Balzer and Associates stated he has done extensive work with the Millers and they have confirmed that the floodplain is there. He stated they have completed the floodplain development map and the analysis shows the rise of the floodplain with this home being 3/10 of a foot. He noted the plans require an engineered foundation and flood vents which will take the water in and out. He stated there will not be any mechanical equipment or habitable area in the floodplain. He stated the existing home was actually built on the ground. He stated the crawl space will be forty (40") inches tall which is preferred by Daryl Marshall.

Mr. Wilkinson stated the Floodplain Development Plan was also evaluated by the County Engineer.

There being no one else left to speak, Chairwoman Tilghman declared the public hearing closed.

Vice Chairman Coyner stated the applicant appears to be following all of the required regulations. He moved that the Variance be approved with the following condition:

Pre-Condition:

- 1. Obtain a Building Permit.

Ms. Brown seconded the motion, which carried unanimously.

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STAFF REPORT

14-23

David P. or Pamela D. Ramsey – **Denied**

March 6, 2015

- 14-24 Victory Worship Center and World Outreach Treasurers
- 14-25 Virginia Electric and Power Company
- 14-26 Blue Ridge Area Food Bank
- 14-27 Leslie K. Smith
- 14-28 Timothy W. Sweeney

Mr. Wilkinson stated staff has received the site plan for SUP#14-24. He stated they have sent the applicant a letter regarding the pre-conditions not being completed for SUP#14-25. He stated the building for SUP#14-26 is currently under construction. He stated SUP#14-27 and SUP#14-28 are both in compliance.

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There being no further business to come before the Board, the meeting was adjourned.

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Chairwoman

Secretary